

Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee

Wednesday, January 21, 2009, 5:30 pm - 9:00 pm

Conference Room 4080, Seattle Municipal Tower, Fifth and Columbia

MEETING SUMMARY

Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
Allison	Bob	Residential Shoreline Property Owner	✓
Arntz	Jan	University of Washington	✓
Ashley	Gregory	Aquatic Permittees/Contractors	✓
Bowman	Bob	Floating Homes	✓
Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	☐
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	☐
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	✓
McCullough	Jack	Business: Central Waterfront	☐
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
O'Halloran	Vince	Labor	☐
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	✓
Rasmussen	James	Environmental: Duwamish	☐
Stabbert	Brooke	Non-Residential Shoreline Property Owners	✓
Trim	Heather	Environmental: Puget Sound	✓
Tu	Trang	Citizen At-Large	✓
Whittaker	Gregory	Recreation/Public Access	✓

Project Team/Presenters/Other Department of Planning and Development (DPD)			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	☐
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	✓
Skelton	John	Seattle DPD	✓
Staley	Brennon	Seattle DPD	✓

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General Public			
Last	First	Organization	In Attendance?
Durand	Chad	520 Bridge Project	✓
Farr	Ann	Port of Seattle Consultant	✓
Mazzella	Tony	Seattle Department of Transportation	✓
McChellan	Kerry	Land Manager	✓
Meyer	Paul	Port of Seattle	✓
Page	Heather	WSDOT Consultant (Anchor Environmental)	✓
Quirk	Patti	Seattle Department of Transportation	✓

Meeting Purpose

This was the seventh meeting of the City of Seattle's Shoreline Master Program (SMP) Update Citizens Advisory Committee (Committee). The meeting included presentations and discussion on: 1) Public Access and Views, 2) Shoreline Permitting, and 3) updates to the Committee work plan, process and options for writing the Committee report.

Welcome and Introductions

Facilitator Michael Kern of Triangle Associates welcomed the Committee to the meeting and led a round of introductions. Michael reviewed the meeting materials and agenda and pointed out intervals for public comment. He asked the Committee for comments on December's meeting summary, which was then approved by the Committee for posting to DPD's SMP Update website. Michael then reviewed possible dates for the Committee's two additional meetings in April and May. The Committee decided that, pending major conflicts from absent members, the following dates would be selected for April and May:

- Tuesday, April 28th
- Wednesday, May 20th

Public Access and Views

Dave LaClergue of DPD announced that DPD's Green Shorelines Guidebook is now available. Copies were provided to all meeting attendees. Dave offered to field any questions Committee members might have about the book, as well as suggestions for its distribution. Dave then presented an overview on DPD's current regulations and proposed changes to public access and views, (see PowerPoint presentation and related handouts available from the Committee's website). He said that DPD's goals are to improve the quality and extent of access, increase connectivity, and maximize compatibility between public access, ecological function, and preferred shoreline uses. DPD is proposing the following changes to regulations around public access and views:

- Create a public access easement inventory and tracking system, for public information and inspections.
- Implement additional development standards for public access features.
- Provide public access exceptions and view corridor reductions only for water-dependent uses, not water-related uses.
- Consider alternatives to onsite access for non-water-dependent industrial such as payment in-

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lieu and ecological restoration beyond standard mitigation.

- Eliminate public access/view corridor exceptions for narrow Lake Union lots adjacent to street ends.
- Modify non-water-dependent requirements within Urban Stable lots.
- Clarify the definition of “view corridor” to allow vegetation.
- Consolidate public access view requirements into one section each.
- Require view corridors along the Ship Canal for parcels separated from the water by a thin band of Conservancy Navigation.
- Broader public access planning and additional development standards for public access.
- Consider developing a Shoreline Public Access Plan in late 2009.

Multiple Committee members encouraged the proposed Public Access Plan. They also supported defining “meaningful public access” by engaging the public and understanding its demands for it.

DPD made the following clarifications:

- Currently, water-dependent and water-related uses are not required to provide public access. In most environments, they also have reduced view corridor requirements.
- Additional development standards would not be retroactive. DPD is not proposing any retroactivity, as the land use code is for new and future development.
- The intent in providing uniform standards for signs and placement and requiring a clear separation between public and private land is to ensure that public access is evident and inviting, especially in cases where public access is provided but it may appear to be part of a private use.
- All commercial lots on Lake Union would be required to provide public access to the water if they are not water-dependent or if they meet a threshold for width to be determined by DPD.
- DPD’s proposed Shoreline Public Access Plan would be a broader planning effort separate from the regulatory update.
- As written in State guidelines, public access and view corridor requirements will not apply to single-family residential uses.
- State guidelines encourage both connected systems of trails and parks, as well as public access on non-water-dependent sites. The intent of public access is to allow people to view the water and water-related activities, and to have physical access to the water wherever feasible.
- There are significant barriers to pooling funds from multiple small projects into large joining public access features. City parks are typically the best way to provide large access areas, but smaller access areas spread along the shoreline also have an important value. Many other jurisdictions seek connectivity between small public access areas. This does not happen overnight but over 30 years, they may all become connected.
- State guidelines say that shorelines constitute a limited resource and should be managed to provide public access, ecological function, or space for water-dependent uses. Non-water-dependent uses preclude use of this finite resource by water-dependent uses and should seek to more fully achieve other goals of the SMP including public access and ecological function. Non-water-dependent uses are subject to more substantial public access requirements because

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they displace priority uses.

- The requirements for public access are based on two provisions. 1) The public should have access to public property, the water, which is publicly owned under the Public Trust Doctrine, and 2) because the SMA gives preference to certain uses. Public access requirements are a way to allow non-preferred uses on the shoreline.
- Floating homes would be considered single-family residential in this case, and not be required to provide public access.
- The City tracked the current amount of public access land available via an inventory and catalogue of all the City's shoreline areas. Gathering this data is required by the SMP update guidelines and will continue to be used after the update to make sure there has been no loss of public access land.
- DPD still needs to conduct an inventory of easements on private land.

Committee member comments and concerns included:

Comment: There are approximately 140 street ends around the City. Some of them are open for public access and some are inaccessible because they are overgrown. There are also a number of others that are inaccessible because they have been leased to industrial or residential property owners. There is an opportunity to open public access areas in the leased street ends because they are already owned by the City.

Comment: Public access is largely defined as access from the land with little consideration of access from the water. Considering public access from the water could create exciting recreational opportunities including water based trails.

Comment: It is important to understand the public's demand for public access and what kind of uses are in greatest demand. This should define opportunities for development standards on all sizes of parcels.

Concern: Requiring view access and water access sounds like DPD is proposing to take private property without paying for it. View access corridors, without a City payment for it or tax benefit, eliminate the ability for the property owner to use the property to its "highest and best use."

Comment: The City should generate more tax revenue and buy parcels for opening up for public access.

Comment: The flexibility allowed by the "payment in lieu of" as an alternative for allowing non-water dependent uses in the industrial zone proposal is a great concept; however, a clear and well developed formula is needed.

Comment: The Port of Seattle has a Seaport Shoreline Plan that was developed in part to communicate to the City the Port's proposals for new public access areas on its own property.

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Comment: Small public access sites in industrial areas are heavily used by workers and locals who may be on their way home from work and or enjoying the site on their break. The documented heavy use of these areas strongly supports the existence and maintenance of little public access areas within industrial zones.

Concern: The central waterfront piers that were rehabilitated in the 1970s came with a requirement for public access. Over time, many of the restaurants and business grew their dividers out, reducing the opportunities for public access. There has been no enforcement against this.

Concern: How do we prioritize habitat restoration and tie it in as a requirement? While it isn't strictly a public access issue, it speaks to the quality of public access.

Concern: When there is adjacent public access to the perimeter boundaries of a maritime industrial facility, there are potential security threats if visitors are able to observe and/or photograph certain activities. Many shipyards are required by federal law to have a security plan, and public access can complicate this effort.

Comment: As properties develop or redevelop, public access and view corridors will be required. New development in industrial zones may not be very susceptible to security concerns because of new technologies and security regulations.

Comment: Property owners should have to provide public access, and should be liable for maintaining the safety and security.

Comment: DPD needs to consider the feasibility and practicality of a business protecting its property from what irresponsible and unsafe things people may do naturally in public access areas. It is unfair to throw all the liability on an industrial property owner. The City should come up with a balance between these concerns; it can absolve property owners from liability for certain situations. Beyond reasonable precautions, property owners should not have to take all the responsibility, however, just because a property owner has pre-existing operations doesn't mean they shouldn't have to make any security or protection changes. The Burke-Gilman Trail presents problems for some industrial users in the BINMIC area – adjacent property owners are now having difficulty finding insurance.

Comment: The City will not “absolve” property owners from liability, because it opens them (the City) up to liability problems.

Concern: There is a big concern about views in Seattle. As development occurs throughout the City, people are becoming less connected visually to the water, which affects the quality of life. DPD should make efforts to preserve view corridors and not let post-development ornamenting or signage go unregulated.

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Comment: The SMP should have a provision that allows one to easily defer or relax the specific onsite dimensional standards in return for something that can be part of the proposed Public Access Plan. DPD can also do lots of things with policies on a staff level to encourage the development of the Public Access Plan idea.

Comment: As DPD promotes connectivity within public access areas, they should also seek to address transit goals through the development of bike/walk trails, encouraging people to get out of their cars.

Public Comment

Patti Quirk, street end manager for Seattle Department of Transportation (SDOT), reminded the Committee that street ends are a part of Seattle's transportation network and belong to SDOT. She said even though they have been set aside as special pieces of property, SDOT still struggles with balancing industrial needs, public access needs, and transportation needs.

Paul Meyer, Port of Seattle, said the proposed vegetation preservation development standard should be written specifically to improve habitat, not to preserve any existing vegetation (including blackberries or other weeds).

Committee Work Plan/Report

Michael mentioned that updates made to the Committee's work plan included addressing "parking lot" issues that arose at the Committee's December meeting. He also said the Committee's March and April meetings would include review of approximately 12 response papers from DPD that refine DPD's proposals via input the Committee has given throughout its process. Brennon Staley of DPD reminded the Committee these response papers will reflect the Committee's opinions, as well as DPD's responses to those opinions. The Committee will then provide an advice paper to DPD in its final report, which DPD will take into account when drafting the new shoreline code. DPD will show the Committee where its comments informed the draft code, where DPD agreed, and where DPD varied and why. It will also ensure the Committee has the opportunity to review the draft code when it is ready.

Michael introduced Dave Robison, Cascadia Community Planning Services, who is serving on the facilitation team and suggested Committee members consider using Dave as a valuable resource in drafting their final report. Dave described his background to the Committee, mentioning he has worn many of the "hats" present which, combined with his shoreline planning experience, puts him in a unique position to help the Committee draft a balanced report. The Committee agreed by consensus to request that Dave write a first draft of the Committee's report, perhaps with help from a subgroup of the Committee.

Shoreline Permitting

Brennon provided an overview of the different types of existing shoreline permits including variances, exceptions, exemptions, and Master Use Permits (MUP) (see the PowerPoint presentation and related handouts available from the Committee's website). Brennon clarified that DPD is not currently

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proposing any changes to the permitting process, but that the purpose of the Committee's discussion is to voice what is working and what isn't, via the following questions:

- What aspects of the shoreline permitting process are working effectively?
- What aspects of the shoreline permitting process are causing the greatest frustration or concern?
- What specific steps could the City take to address your concerns?

Committee responses and DPD clarifications included:

Clarification: The term "substantial development permit" refers to specific State language that is uniform across all SMPs throughout Washington cities. Within Seattle, it also referred to as a type of Master Use Permit (MUP).

Comment: The Port of Seattle has a list of operational needs related to administrative procedures and permitting located on page seven of its 2007 Seaport Shoreline Plan.

Clarification: The dollar threshold for small projects (\$5,374) is based upon a state mandated number plus cost of living increases.

What aspects of the shoreline permitting process are working effectively?

Comment: DPD's *Green Shorelines* publication has some great information on permits. The City is doing the right thing when it creates pamphlets like this.

Comment: The type of review currently expended for a maintenance project should remain the same.

Comment: The substantial development process works, but takes too long.

Comment: DPD planners are dedicated and there are good experiences to be had.

What aspects of the shoreline permitting process are causing the greatest frustration or concern?

Concern: The City does not always enforce its own policies, specifically regarding signage and the posting of white and yellow boards on a project site.

Comment: The process is exceptionally bureaucratic and cumbersome. It is nearly impossible to get a land use question answered over the phone. There also seems to be a lack of understanding about existing industrial facilities and their requirements and challenges.

Comment: Permit review is generally billed at a \$260 an hour planner review rate. Typical fees for a permit are \$150-\$500 for exemptions, a high end of \$5,000 for a single-family residence permit, and upwards of tens of thousands of dollars for large projects. The cost of the permit is also not so much the issue as is the length of time it takes to receive the permit and the associated costs that grow during

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that time.

Comment: Some people would pay more money to get their permit approved faster.

Comment: Exemption codes should take one hour to complete, not ten weeks.

Comment: The review process can be redundant and overlaps with other agencies. The City does not need to go in depth on issues that the Army Corps of Engineers already covers.

Comment: The City needs to be fair. It has a history of approving projects for the Parks department and not for private entities. One should not have to dig around to find out why and how the City or a department received approval.

Comment: The City should not hinder creative solutions to development that they are not familiar with. For example, the use of logs to stabilize the beach around the University of Washington.

Concern: Planners are sometimes afraid of making decisions because of all the “grey area” that exists around their interpretations. This leads to a lengthy process as plans are sent up the bureaucratic ladder to a confident decision maker. Permits will also get kicked back to the permittee because of unclear clarifications requested inconsistently by various reviewers.

Comment: The process needs consistency, which can be found through coordination between the state and the federal agencies.

What specific steps could the City take to address your concerns?

Concern: There is an inconsistency issue between the planners and their interpretations. Consistency is needed throughout the entire process and between the planners. There needs to be a list that outlines what is exempt and what next steps are.

Comment: The state and federal agencies send emails about new projects; Seattle should do this as well. There should be an email list for shoreline projects, as well as projects by neighborhood.

Comment: Variances need to be tracked by specific topic, as well as critical areas ordinances.

Comment: Provide more clarity to the process by developing presentations and simple step-by-step plans for what a citizen/developer needs to do, and when, to build along the shoreline.

Comment: The SMP update is the perfect opportunity for permitting agencies at every level of government to get in alignment. It would be helpful to establish an order to when permits are granted and received, and to have this order published so that people know what to expect.

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Comment: Perhaps DPD needs more staff.

Comment: DPD should use the Joint Aquatic Resources Permit Application (JARPA).

Comment: The Puget Sound Partnership wants to expand conditional use permits for maintenance projects and exemptions. Do not add these unnecessary regulations.

Comment: Make sure SEPA policies are consistent with City policies and shoreline exemptions. The definitions of “maintenance and repair” should overlap.

Comment: DPD should recognize that certain projects and construction proposals are ongoing and may benefit from a programmatic approach to maintenance and repair.

Clarification: The problem with the subjectivity of decisions is not entirely the City’s fault. Subjective decisions sometimes exist because the problems are ill defined, for example “no-net-loss of ecological function.” The Shoreline Management Act (SMA) is purposefully written vaguely so that planners can have room for interpretation. The problem is that the SMA is too vague. The City should define some of the vague terms like “may be allowed,” “shall” and “may” within the SMP to make it clearer.

Brennon reminded the Committee that Seattle has experienced unprecedented growth over the past few years, which has affected the number of permits coming in and the staff available to handle them. He encouraged the Committee to continue thinking of specific frustration or praises that may help DPD. He also mentioned that the City is currently undergoing a process for receiving feedback on the permitting process, has a new training coordinator, is developing a green permitting expediting program, and is working on code simplification in order to make the permitting process more simple and predictable.

Public Comment

Ann Farr said that, as a citizen who has applied for permits dozens of times, it is far more difficult to obtain shoreline approval in Seattle than in any other jurisdiction around Puget Sound. She said that Seattle asks for different information than other cities and even though one gets rated as an applicant for coming in routinely, a 100% rating has done nothing to speed up the process. She mentioned frustrations with the office not regularly being open, that she would like to see incentives for the City to speed up its process, and that opportunities should exist for applicants to make on-the-spot corrections and for DPD to accept packages that are 90% correct. Ann suggested different pipelines for simple projects versus more complicated ones, since easily-processed applications can be hung up for months behind larger ones.

Chad Durand, a consultant for WSDOT, suggested that a planner be assigned to a specific project to help champion it through the process. This would create internal DPD incentives for processing projects in a timely manner.

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Heather Page, Anchor Environmental and WSDOT consultant, praised the individual working on shoreline exemptions who has been instrumental at quick processing. She also suggested that a permittee work with one planner throughout the entire process, specifically a planner that is familiar with similar projects. She said the SMP update should be helpful in creating consistency, that the permitting process should align with the land use process in terms of submitting electronic notifications, she echoed the Committee's frustrations, and recommended that DPD use a case study she would provide for streamlining the permitting process.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD; the prior meeting summary and all materials from this meeting will be posted to the web, and materials for the February meeting will be provided at least a week ahead of time. He encouraged Committee members to contact him and/or DPD with any process questions, comments, etc.

Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Tuesday, February 24, 2008 from 5:30 PM (5:00 PM "meet and greet") to 9 PM.